



July 10, 2000

Ms. Tenley Aldredge  
Assistant County Attorney  
County Of Travis  
P.O. Box 1748  
Austin, Texas 78767

OR2000-2572

Dear Ms. Aldredge:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 137173.

The Travis County Sheriff's Office (the "county"), which you represent, received a request for a specified offense report. You have submitted for our review information that is responsive to the request, consisting of an incident report involving an alleged assault.<sup>1</sup> You assert that the requested information is excepted from disclosure under sections 552.103, 552.108, and 552.130 of the Government Code. We have considered the exceptions you assert and reviewed the submitted information.

Section 552.108 of the Government Code provides in part:

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<sup>1</sup>The request seeks report number "00-02807," apparently pertaining to an "assault." The submitted information consists of the report for incident number 99-26905, which pertains to an alleged assault. The request also contains a handwritten notation of "wrong #." We therefore assume that the county has clarified with the requestor the specific information requested, and that the information that is responsive to the request has been submitted for our review. The submitted documents indicate other information exists which relates to the incident (photographs, a criminal complaint, a sworn statement, and a probable cause affidavit). The submitted documents did not include this information. Because the wording of the request is unclear, and because the other information related to the incident was not submitted for our review, we assume that the related information is not responsive to the present request. This decision accordingly addresses only the documents you have submitted for our review.

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime;

(2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication; or

(3) it is information that:

(A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation;

(B) reflects the mental impressions or legal reasoning of an attorney representing the state.

\* \* \*

(c) This section does not except from the requirements of Section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

Gov't Code § 552.108. Generally, a governmental body claiming an exception under section 552.108 must reasonably explain, if the information does not supply the explanation on its face, how and why the release of the requested information would interfere with law enforcement. *See* Gov't Code §§ 552.108(a)(1), (b)(1), .301(b)(1); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You indicate that the requested information concerns a case in which a related prosecution is pending. We therefore find that you have shown that the release of the requested information would interfere with the detection, investigation or prosecution of crime. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases); Open Records Decision No. 216 (1978). Thus, we conclude that most of the requested information may be withheld under section 552.108(a)(1).

We note, however, that information normally found on the front page of an offense report is generally considered public. *Houston Chronicle*, 531 S.W.2d at 177; Open Records Decision No. 127 (1976). Thus, you must release the type of information that is considered

to be front page offense report information, even if this information is not actually located on the front page of the offense report.<sup>2</sup> Gov't Code § 552.108(c); *see* Open Records Decision No. 127 (1976) (summarizing the types of information deemed public by *Houston Chronicle*).

In summary, the submitted documents are excepted from disclosure under section 552.108, except you must release to the requestor the front page offense report information.

Because we make a determination under section 552.108, we do not address your additional arguments against disclosure. This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental

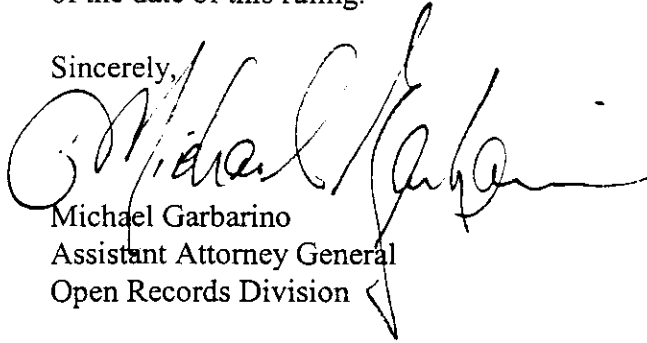
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<sup>2</sup>Moreover, as to the section 552.103 assertion, we note that section 552.103 of the Government Code does not except from disclosure front page offense report information. Open Records Decision No. 362 (1983).

body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Garbarino", is written over the typed name and title.

Michael Garbarino  
Assistant Attorney General  
Open Records Division

MG/pr

Ref: ID# 137173

Encl. Submitted documents

cc: Ms. Nancy Clakley  
18219 Ledge Street  
Jonestown, Texas 78645  
(w/o enclosures)